



U.S. DEPARTMENT of STATE

Argentina

Country Reports on Human Rights Practices - [2003](#)

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Argentina is a federal constitutional democracy with an executive branch headed by an elected president, a bicameral legislature, and a separate judiciary. After protests in December 2001 led to the resignation of President Fernando de la Rúa and a succession of interim presidents elected by the Legislative Assembly, presidential elections were held in April. No candidate gained sufficient votes to win the election in the first round; however, former President Carlos Menem withdrew his candidacy before the second round, and Nestor Kirchner was declared the President and assumed office on May 25. The Constitution provides for an independent judiciary, but it was often inefficient and at times subject to political influence.

The President is the constitutional commander-in-chief, and a civilian Defense Minister oversees the armed forces. Several agencies share responsibility for maintaining law and order. The Federal Police (PFA) report to the Secretary of Security under the Ministry of Justice, Security, and Human Rights, as do the Border Police ("Gendarmería") and Coast Guard. The PFA has jurisdiction in the Federal Capital and over federal crimes in the provinces. Provincial police are subordinate to the provincial governors. While civilian authorities generally maintained effective control of the security forces, there were instances in which elements of the security forces acted independently of government authority. Some members of the security forces committed human rights abuses.

The country is resource rich and has a market-based mixed agricultural, industrial, and service economy and a population of approximately 36.2 million. Despite a severe economic and financial crisis in recent years, the economy grew during the year, spurred by the liberalization of the exchange rate and high commodity prices for key exports such as soybeans and wheat. Real economic growth was approximately 8 percent for the year.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. There were instances of killings and brutality by police and prison officials. Authorities prosecuted some police for such actions, although impunity continued, particularly in jails and prisons. Police corruption was a problem. Overcrowding in jails and prisons was a problem. Police sometimes arbitrarily arrested and detained citizens. The judiciary was slow and showed clear signs of politicization. The judiciary continued to work through the legacy of human rights abuses committed during the "dirty war" of the 1976-83 military regime. Anti-Semitism remained a problem, despite steps to combat it. Domestic violence against women was a problem. Discrimination against racial and ethnic minorities persisted. Child labor was a problem. There were reports of trafficking in women and children.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no political killings; however, some persons asserted that killings of protesters during demonstrations were politically motivated (see Section 2.b.). Police and prison officers were responsible for killings involving the use of unwarranted or excessive force. The authorities investigated, and in some cases, detained, tried, and convicted the officers involved; however, impunity for those who committed abuses was sometimes a problem. The Center for Legal and Social Studies calculated that in the Buenos Aires region there were 149 violent deaths, civilian and official, involving security forces in the first 6 months of the year; some of these were killings at the time of apprehension, while others involved killings by stray bullets. There were also a few prison killings with suspected official involvement.

On February 6, authorities discovered the remains of Patricia Villalba and Leyla Bshier Nazar in a field near La Darsena, Santiago del Estero Province. Villalba was reportedly killed with the participation of provincial authorities to prevent disclosure of information concerning the prior death and dismemberment of Bshier Nazar. By November, the presiding judge had arrested 27 people in connection with the crime and charged 7 with the killings. Among those accused of killing Villalba were Antonio Musa Azar, the former provincial chief of intelligence, and three policemen, Hector Albarracin, Jorge Gomez, and Francisco Mattar.

On August 5, prisoner Lucas Ricardo Carrizo was found hanged in his cell in the Ezeiza Penitentiary Complex 1, just days before becoming eligible for parole. Other prisoners reported that Carrizo was present when Carlos Sanchez Tejada was killed in the same prison in July 2002. These deaths and those of Maximiliano Noguera in 2000 and Miguel Angel Arribas in 1999 were suspected to have been committed to cover up a ring of corruption in Caceros prison whereby prison officials released inmates to carry out robberies. The day after Carrizo's death, the Minister of Justice dismissed 69 members of the Penitentiary Service, including the director of the Ezeiza complex. By mid-August, Judge Alberto Banos had ordered the arrest of 22 former Caseros prison staff.

There were no developments in the case of the 2002 killing of Daniel Chocobar (see Section 1.c.). Authorities prepared to try a provincial police chief for the 2002 shooting deaths of demonstrators Dario Santillan and Maximiliano Kosteki; three other police were charged with a coverup (see Sections 1.c. and 2.b.). On November 14, three police officers were acquitted of the 2002 killing of Roque Sebastian Villagra. Nine Federal Police detained and charged for the 2002 beating and drowning of Ezequiel Demonty had still not been tried by year's end. Authorities detained seven police who awaited trial in the beating and death of Andrea Viera in May 2002.

Investigations continued into the deaths that occurred in Buenos Aires, Rosario, and Santa Fe in 2001 during lootings and demonstrations. Seven active or retired police remained in detention for five deaths being investigated by the federal judiciary. A Rosario judge found "insufficient evidence" to proceed to trial of police suspected of three killings. A police officer remained in jail awaiting trial for the killing of Claudio Lepratti, a fourth person killed in Rosario. There were no developments in the investigation of a related killing in Cordoba.

The investigation into the 2001 killings of Gaston Galvan and Miguel Burgos continued. There was no new information on the investigations of the 2001 shooting death of 16-year-old Martin Gonzalez in Tigre, Buenos Aires Province (with suspected involvement of a policeman) or the deaths of Carlos Santillan and Oscar Barrios in 2001 (apparently related to confrontations between police and roadblock protesters).

In March, the chief prosecutor for the provincial Supreme Court opened an investigation into possible prosecutor negligence in San Isidro concerning investigative irregularities in some of the deaths of over 60 minors killed in supposed confrontations with police in Buenos Aires Province in 1999 and 2000. In August, the provincial police also initiated an administrative investigation of two police officers.

The trial of policeman Felipe Gil, under detention for the deaths of Jose Zambrano and Pablo Rodriguez in Mendoza Province in 2000 was expected to begin in March 2004.

On November 12, a court convicted 12 Federal Police officers for the 2000 killing of Manuel Fernandez in Jujuy.

The investigation into the 1994 terrorist bombing of the Buenos Aires Jewish Community Center (AMIA) in which 85 persons were killed advanced significantly. A court indicted 12 Iranian officials and 1 Lebanese national, and the former Iranian Ambassador to Argentina at the time of the blast was briefly detained in the United Kingdom. The trial of 20 suspects (15 of whom are former police officers) accused of providing material support for the attack continued at year's end. President Kirchner pledged his support for the investigation and efforts to achieve justice in this case (see Section 2.c.).

In August, the President revoked a 2001 presidential decree proscribing extraditions for dirty war crimes and finalized the country's ratification of the U.N. Convention on the Non-Applicability of Statutes of Limitations to War Crimes and Crimes Against Humanity. The decree also encouraged the Congress to annul the 1986 and 1987 "Full Stop" and "Due Obedience" de facto amnesty laws for crimes committed during the 1976-83 dirty war. In August, the Congress passed such an annulment with retroactive effect, clearing the way for courts to reopen major criminal cases against military officials that had been shelved following the amnesty laws. Two of these cases, related to the Naval Mechanics School and the First Army Corps, led to judicial arrest orders for a number of former security force members.

Cases already underway because of prior court challenges to the constitutionality of the amnesty laws continued. These included the investigation by Judge Claudio Bonadio into the kidnapping and killing of exiled Montonero

guerrillas upon their return in 1979-80 as well as Judge Rodolfo Canicoba Corral's investigation into cooperation among military and security officials of six countries as part of "Operation Condor."

The Supreme Court continued to weigh the constitutionality of the amnesty laws; however, in September, it referred a challenge to amnesty laws to a lower appeals court, further delaying a final decision.

Judicial authorities in Spain, Italy, France, Sweden, and Germany sought to prosecute those believed responsible for disappearances and killings during the military regime. France renewed its effort to extradite former naval officer Alfredo Astiz, who was convicted in absentia for the deaths of two French nuns. Italy and Sweden also sought his extradition for the disappearance of three Italians and a Swedish national. Germany continued to pursue its extradition request for dirty war suspects, including former head of the First Army Corps, Carlos Guillermo Suarez Mason. In July, more than 40 suspects were detained and held for several weeks on charges of genocide and other abuses pursuant to a Spanish judge's request.

Retired Navy officer Ricardo Cavallo, arrested in Mexico in 2000, was extradited to Spain to face charges of genocide, torture, and terrorism. The Mexican courts dismissed the torture charges as having expired. This was described as a landmark case of an extradition from one country to another to face charges on gross human rights abuses committed in a third country.

b. Disappearance

There were no reports of politically motivated disappearances during the year.

Judicial proceedings and extradition attempts related to killings, disappearances, and torture committed by the 1976-83 military regimes continued (see Section 1.a.).

The Under Secretariat for Human Rights, which maintains the files of the National Commission on Disappeared Persons, received 9,005 claims for financial compensation from families of those who died or disappeared during the military dictatorship. While some human rights groups claimed that as many as 30,000 persons disappeared, the number of compensation applications suggested that a figure between 10,000 and 15,000 may be more accurate.

At the urging of the human rights organization Grandmothers of the Plaza de Mayo, judicial authorities continued to investigate an estimated 250 to 300 cases of kidnapping and illegal adoption by members of the former military regime of children born to detained dissidents. The Grandmothers also assisted families in presenting cases of kidnapped children nationwide and have identified over 70 children of persons who disappeared.

A number of those suspected of crimes linked to appropriation of the children of disappeared persons remained under detention, including Francisco Gomez and his wife, and Navy doctor Jorge Luis Magnacco.

In September, the Supreme Court ruled not to force a suspected daughter of a couple who disappeared to provide a blood sample for DNA analysis to prove her true identity.

Human rights activists continued to pursue "truth trials" intended to correct official records, especially with regard to the fate of those who disappeared and those born in captivity (see Section 1.a.).

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits such practices, and the Criminal Code provides penalties for torture similar to those for homicide; however, some torture and brutality by police and prison guards continued to occur. Human rights organizations described police brutality, the occasional use of torture on suspects, and corruption within the prison and police forces. The Government investigated some past reports of police or prison brutality; however, few cases were tried and even fewer resulted in convictions. Threats to witnesses and advocates made prosecution of abuses and reform more difficult. Provincial judicial authorities effectively deactivated a registry of abuses. In 2002, the Government created a Secretariat for Human Rights for Buenos Aires Province, which established a Program for the Prevention of Torture.

The wife of jailed robbery suspect Gumersindo Vergara, who was alleged to have committed suicide in September in northwest Chubut Province, reported that her husband's body showed signs of torture. The family's lawyer also presented evidence of police intimidation.

There were no further developments related to the five police jailed for the torture of Javier Villanueva in 2001.

Prison conditions were often poor. Some facilities were old and dilapidated, and many prisons and jails were overcrowded. A notable increase in crime and stricter provisions for early release, combined with a slow judicial system, led to overcrowded prisons and police stations. In September, a press report on Buenos Aires Province stated that there were 6,200 detainees in police station facilities designed for 3,000, and the 36 provincial prison units designed for 15,000 inmates held 22,000. The report also noted that the province was building 4 additional prisons to house 2,800 inmates. The overcrowding contributed both to security problems--such as jailbreaks and riots--and to mistreatment of prisoners.

Impunity for corruption, torture, and brutality by prison guards and officials remained a serious problem. Prisoners who filed torture and mistreatment complaints were targeted for torture or killed. While some provincial prison officials were dismissed, there were no known developments with respect to the prosecution of suspects in these attacks.

Under national regulations, pretrial prisoners may not be held together with convicted prisoners; however, reliable reports indicated that this segregation of prisoners often was not respected in practice.

The law provides for separate facilities for women and for minors, and these were available.

The Government permitted prison visits by independent human rights observers.

d. Arbitrary Arrest, Detention, or Exile

The Penal Code limits arbitrary arrest and detention, and the Government generally observed these prohibitions; however, provincial police sometimes ignored these restrictions and arbitrarily arrested and detained citizens. In the past, human rights groups reported difficulties in documenting such incidents because victims were reluctant to file complaints for fear of police retaliation or inaction. There were reports that in some provinces paramilitary groups worked in conjunction with police elements.

In addition to the PFA and Border Police, each province has its own police force. These are generally under a police hierarchy which in turn responds to a Security Minister or other executive branch council. In practice, the effectiveness of and respect for human rights by different forces varied considerably. Corruption was systemic in some forces, and impunity for police abuses was common.

Some of the most common practices included contract abuses, extortion of and protection for those involved in illegal gambling, prostitution, and auto theft rings, as well as detention and extortion of citizens under the threat of planting evidence to charge them for crimes. Police were also often involved in drug trafficking and kidnapping. In October, the head of the PFA and at least 14 other senior PFA captains were dismissed on charges of corruption. In Buenos Aires Province, dozens of upper level provincial police were subject to investigation for "illicit enrichment," and the former head of the provincial police resigned after it was discovered he had inexplicably deposited several hundred thousand dollars in an offshore account. In April, authorities discovered a Salta Province counternarcotics police chief with 50 kilos of cocaine and arrested him for drug trafficking. Addressing police corruption was difficult, in part, because the suspects intimidated whistleblowing colleagues, judicial officials, and civilian witnesses. Threats and beatings allegedly aimed to intimidate witnesses were common and, in some cases, occurred in connection with murders believed committed by members of security forces or their criminal allies (see Section 1.a.).

Police may detain suspects for up to 10 hours without an arrest warrant if the authorities have a well-founded belief that suspects have committed, or are about to commit, a crime, or if they are unable to determine the identity of a suspect. However, human rights groups argued that this provision of law was disregarded in order to extort money from persons by threatening to charge them with illegal weapons or drug possession.

The law allows pretrial detention for up to 2 years, and the slow pace of the justice system often resulted in lengthy pretrial detentions (see Section 1.e.). If convicted, a prisoner usually received credit for time already served. According to local authorities, approximately 70 percent of the inmates in the federal prisons of the greater Buenos Aires area were in pretrial detention.

The law provides for the right to bail, and it was utilized in practice.

The law does not permit forced exile, and it was not used.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary; however, while the judiciary is nominally independent and impartial, its judges and judicial personnel were inefficient and, at times, subject to, and apt to exercise, political influence. The system was hampered by inordinate delays, procedural logjams, changes of judges, inadequate administrative support, and incompetence. Judges have broad discretion as to whether and how to pursue investigations, contributing to a sense that many decisions were arbitrary. Allegations of corruption were reported widely, but only a small number of investigations, judicial impeachment trials, and dismissals of judges actually took place. Allegations of corruption in provincial courts were even more frequent than at the federal level, reflecting strong connections between some governors and judicial powers in their provinces.

The judicial system is divided into federal and provincial courts, each headed by a Supreme Court with chambers of appeal and section courts below it. The federal courts are divided between the criminal courts and economic courts.

The Council of Magistrates submits a slate of candidates for each federal judicial vacancy to the President, whose selection is subject to Senate approval. The Council also conducts impeachment hearings of judges and administers the federal court system. In October, there were 90 vacant positions and 34 slates awaiting executive decisions. Five new judges were appointed, and one was removed.

In June, Supreme Court Chief Justice Julio Nazareno resigned soon after an impeachment process began in the Chamber of Deputies. With the encouragement of the Justice Minister, the Impeachment Committee in the Chamber brought charges against a second Supreme Court Justice, Eduardo Moline O'Connor, and, in December, the Senate voted to impeach him. In October, a third Justice, Guillermo Lopez, resigned after the Impeachment Committee began proceedings against him.

In June, the Government adopted a new public disclosure and consultation process for Supreme Court nominees and later implemented a similar procedure for other judicial appointments. In October, Raul Zaffaroni became the first Supreme Court nominee approved under the new procedures.

There were credible allegations of efforts by members of security forces and others to intimidate the judiciary and witnesses (see Sections 1.a., 1.b., and 1.c.).

In July, the clerk of a court in the Federal Capital reportedly stated in an administrative investigation that she had been subject to coercion and pressure from judges, prosecutors, and high ranking police, in relation to a major 1996 armored car robbery.

The prosecutor in the case of the June 2002 killing of Ian Duran, a teenage witness in a murder case, failed to carry out basic notification procedures required for a trial, and the proceedings were found null and void. The prosecutor claimed Duran's killing was unrelated to the prior murder. Another prosecutor was appointed to renew the investigation. There was no further information on the numerous threats reportedly received in relation to the case.

Trials are public, and defendants have the right to legal counsel and to call defense witnesses. A panel of judges decides guilt or innocence. Federal and provincial courts continued the transition to oral trials in criminal cases, replacing the old system of written submissions. However, substantial elements of the old system remain, some of which have the potential to bias a judge before oral testimony is heard. Lengthy delays in trials were a problem. Although the 1994 Constitution provides for trial by jury, implementing legislation has not been passed. There is a provision for counsel for indigents; however, in practice, counsel may not always be provided due to a lack of resources. Suspects other than minors are presumed innocent, and defendants have the right to appeal, as do prosecutors.

Some children's advocates considered laws regarding minors outdated and in need of reform in view of the country's commitments under the U.N. Convention on the Rights of the Child (see Section 5.).

On May 20, President Duhalde pardoned Enrique Gorriaran Merlo, the final remaining prisoner from the 1989 La Tablada barracks assault. He also pardoned two other La Tablada prisoners who had already been given provisional release, as well as the leader and six members of the "carapintada" military uprising.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution prohibits such practices, and the Government generally respected these prohibitions in practice. In practice, local police stopped and searched individuals on the pretext of checking documents--a practice that increased as crime rates rose.

The law provides the PFA with search, seizure, and entry powers without a court order in cases of danger.

The law provides for legislative oversight of government intelligence activities and prohibits unauthorized interception of private communications; however, in practice the legislative oversight has yet to be effectively applied.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice.

A number of independent newspapers and magazines published freely, and all print media were owned privately. Privately owned radio and television stations broadcast freely. The Federal Government owned the Telam wire service, a radio network, and a television station. A few provincial governments also owned broadcast media.

In September, the Supreme Court struck down dirty war era limitations on broadcast media ownership, thereby allowing nonprofit organizations to own radio stations.

During the year, the journalists' association, Periodistas, reported continued attacks on journalists, including threats and scuffles with police during coverage of demonstrations. In addition, some sources cited an increased tendency by national and provincial government agencies to withhold advertising to manipulate media coverage. Concerns were also raised about the degree to which major print media, subject to severe financial constraints, exercised self-censorship in their criticism of the Government in exchange for favorable government treatment of debts and allocation of official advertising.

There were no developments in the investigation of the 2001 threats against journalists Edgardo Soto, Carlos Abrehu, or Martin Oeschger.

The Government did not restrict Internet access.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly, and the Government generally respected this right in practice. During the year, numerous peaceful protests and demonstrations occurred throughout the country (see Section 6.a.). Security forces occasionally used rubber bullets but more often used tear gas and water cannons to disperse unruly demonstrators.

Protest marches, roadblocks, and other demonstrations occurred frequently during the year and were usually peaceful. Often the protests and roadblocks were related to loss of employment and distribution of public benefit programs. In only a few cases did security forces and demonstrators engage in violent confrontations. In November, in the Province of Jujuy, Marcelo Cuellar was killed outside a police station during a protest over the suspicious death of prisoner Cristian Ibanez. Six police were arrested in connection with the deaths. Demonstrators were detained in several instances, leading to charges that the Government was "criminalizing" protests. It was reported that hooligans often inserted themselves into otherwise peaceful demonstrations in order to provoke confrontations with police.

Three Buenos Aires provincial police, including a chief, remained under detention for killing two demonstrators, Maximiliano Kosteki and Dario Santillan, following a confrontation between security forces and roadblocking "piqueteros" in June 2002. In addition, a prosecutor requested a trial for eight other police accused of breaking into

United Left/Communist Party headquarters and shooting and kicking demonstrators seeking refuge.

The Constitution and the law provide for freedom of association, and the Government generally respected this right in practice.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in practice. The Constitution states that the Federal Government "sustains the apostolic Roman Catholic faith," and the Government provided the Catholic Church with a variety of subsidies. Other religious faiths were practiced freely.

The Secretariat of Worship in the Ministry of Foreign Relations, International Trade, and Worship is responsible for conducting the Government's relations with the Catholic Church, non-Catholic Christian churches, and other religious organizations in the country. Religious organizations that wish to hold public worship services and obtain tax exempt status must register with the Secretariat and report periodically in order to maintain their status.

Acts of discrimination and violence against religious minorities, particularly the Jewish and Muslim communities, continued. Combating this and other forms of intolerance was a priority for the National Institute against Discrimination, Xenophobia, and Racism (INADI). The Government continued to support a public dialogue to highlight past discrimination and to encourage improved religious tolerance. There were a number of reports of anti-Semitic acts and of threats against Jewish organizations and individuals during the year. The most frequent incidents included anti-Semitic and pro-Nazi graffiti and posters in cities throughout the country.

In late 2002, the Tucuman provincial Supreme Court ruled that a non-Christian governor could be sworn in under a modified, nonreligious oath of office.

Cemetery desecrations continued to occur. On September 20, a Jewish cemetery in the Province of Santa Fe was desecrated.

There were no developments in the desecration of approximately 150 tombs in an Islamic Cemetery in La Matanza in July 2002 nor in the case of an anti-Semitic note left with an anti-tank grenade outside a Jewish Club in La Plata in November 2002.

There were no developments in the 2001 attack on the Shi'a Muslim mosque in Buenos Aires, the bomb threat reportedly received 2 days later by the San Justo Islamic Cultural Center in Buenos Aires, or the letter bomb that injured musician Alberto Merenson.

The Government participated actively in the International Holocaust Education Task Force.

The Supreme Court's investigation into the 1992 bombing of the Israeli Embassy in Buenos Aires remained at a virtual standstill. However, the investigation to find those directly responsible for the 1994 bombing of the AMIA Jewish community center in which 85 persons died advanced significantly (see Section 1.a.).

In March, the judge heading the ongoing investigation of the AMIA bombing issued an arrest order for four Iranian officials suspected of planning the terrorist attack. They included Moshen Rabbani, former cultural attache, diplomatic courier Barat Balesh Abadi, Iranian Intelligence Minister Ali Fallahian, and diplomat Ali Akbar Parvaresh. In May, the judge requested the arrest of Lebanese national Imad Mugniyeh, whom the Government already sought as a suspect in the 1982 bombing of the Israeli Embassy in Buenos Aires. In August, the judge requested the arrest of an additional eight Iranian officials, including the Ambassador at the time of the 1994 bombing, Hadi Soleimanpour, who was then detained for possible extradition in the United Kingdom. Soleimanpour was later released for insufficient evidence. Presidents Duhalde and Kirchner encouraged the investigation into the bombings, provided an intelligence report to support the investigation, gave permission to open sealed intelligence service files, and allowed agents from the State Intelligence Secretariat to testify in court.

For a more detailed discussion, see the [2003 International Religious Freedom Report](http://www.state.gov/g/drl/rls/hrrpt/2003/27883pf.htm).

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution and laws provide for these rights, and the Government generally respected them in practice.

The law provides for granting of asylum or refugee status to persons who meet the definitions in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement and granted refugee status or asylum. The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The cooperation program between the Argentine Refugee Committee and the UNHCR was extended through the end of the year and resulted in a reduction in the number of pending requests for refugee status from roughly 2,500 to 800.

In December, the Congress passed a migration law that is expected to reduce discriminatory treatment against migrants and significantly assist migrants in obtaining legal residence status.

Section 3 Respect for Political Rights: The Right of Citizens to Change their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. In April, presidential elections were held with no candidate receiving sufficient votes to win outright. Before a runoff could be held, former President Carlos Menem withdrew his candidacy, and, according to constitutional procedures, Nestor Kirchner was declared the winner and assumed the Presidency on May 25.

The Constitution calls for political parties to implement measures to increase women's representation in elective office. Decrees provide that one third of the members of both houses of Congress must be women, a goal which was effectively achieved through balanced election slates. In the Senate, 30 of 71 Senators were women. There were 87 women among the 255 representatives in the Chamber of Deputies. The Minister of Social Development was the only woman in the Cabinet. There were no female Supreme Court justices, although a woman was nominated for a vacancy in December, and women were prominent in other levels of the judiciary.

There were no known indigenous, ethnic, or racial minorities in the national legislature, the Cabinet, or the Supreme Court.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. The Government was usually cooperative, although not always responsive to their views.

Among the most active human rights organizations were the Grandmothers of Plaza de Mayo, the Mothers of Plaza de Mayo Founding Line, the Center for Legal and Social Studies, the Permanent Assembly for Human Rights, Service for Peace and Justice, Coordinator Against Police and Institutional Repression, and New Rights of Man.

There were credible allegations of efforts by members of security forces and others to intimidate the judiciary, witnesses, and local human rights organizations (see Section 1.e.).

There were no developments in the 2001 shooting into the home of Estela de Carlotto, a leader of the Grandmothers of the Plaza de Mayo.

Within the Federal Government, the Ministry of Justice, Security and Human Rights' Under Secretariat for Human Rights addresses human rights concerns at a domestic level. Human rights issues at the international level are handled by the Directorate General of Human Rights of the Ministry of Foreign Relations, International Trade, and Worship. The Foreign Ministry and Ministry of Justice, Security and Human Rights cooperated with international human rights entities, issuing an open invitation in 2002 to specialized U.N. human rights committees to visit the country and providing helpful follow up information and assistance on key cases. However, the Government was reported to have successfully sought Supreme Court reprimand of a judge in late 2002 for having provided a critical academic opinion in a case on arbitrary detention raised at the Inter-American Commission on Human Rights (IACHR).

On August 25, representatives of the IACHR again visited the country. The chief IACHR representative praised the annulment of the amnesty laws and the general cooperation of government authorities. He also noted citizens' recognition of their rights to bring cases before the IACHR. He expressed concerns about human rights in the

province of Santiago del Estero, where people were afraid to criticize the Government, and paramilitary groups worked with police elements.

Section 5 Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution and law provide for equal treatment for all citizens, and the law provides for prison terms of up to 3 years for discrimination based on race, nationality, ideology, political opinion, sex, economic position, social class, or physical characteristics.

INADI is mandated to identify and combat all forms of intolerance in the country. INADI investigated violations of the anti-discrimination law and carried out research and educational programs to promote social and cultural pluralism and combat discriminatory attitudes. After several years of institutional difficulties, the law establishing INADI was amended to provide INADI with greater independence and its own budget, although such changes were still not fully implemented.

An interministerial committee held an extensive series of public consultations throughout the country, including in provinces with considerable migrant and indigenous populations. These discussions, assisted by the U.N. were aimed at developing and implementing a National Plan Against Discrimination, Xenophobia, and Other Forms of Intolerance, to follow up on the conclusions of the 2001 U.N. Conference in Durban with specific measures to provide effective protection to the most vulnerable sectors of society.

Women

Domestic violence and sexual harassment against women were recognized as serious societal problems; however, the lack of official statistics on these crimes made accurate measure of the problems difficult. The Government, through the National Council of Women, continued its attempts to implement a standardized statistical system on domestic violence.

Any person suffering physical or psychological domestic violence by a family member may file a formal complaint with a judge or police station, and the Law on Protection Against Family Violence gives a judge the right to prevent the perpetrator of a violent act from entering the victim's home or workplace.

Reliable statistics as to the extent of rape were not available. Rape falls under the Law of Crimes Against Sexual Integrity. Marital and acquaintance rape involving force are offenses under the law; however, the need for proof, either in the form of clear physical injury or the testimony of a witness, often presented problems. The penalties for rape vary from 6 months to 20 years.

Public and private institutions offered prevention programs and provided support and treatment for abused women, but there was little transitory housing. The Buenos Aires municipal government operated a small shelter for battered women and a 24-hour hot line offering support and guidance to victims of violence; however, few other shelters existed.

Nongovernmental organizations (NGOs) working in the area of women's rights stressed that women often did not have a full understanding of their rights or of what actions could be considered punishable offenses. In addition, there was a great disparity between urban centers and rural areas with respect to women's awareness of and access to equal rights.

Sexual harassment occurred widely but was actionable in some areas.

Soliciting for prostitution is generally illegal but did occur. Some women have been trafficked to the country for prostitution (see Section 6.f.).

Despite legal prohibitions, women encountered economic discrimination and occupied a disproportionate number of lower paying jobs. Often women were paid less than men for equivalent work, although this is prohibited explicitly by law.

The National Council of Women carried out programs to promote equal opportunity for women in the social, political, and economic arenas. The Special Representative for International Women's Issues, a unit in the Ministry of Foreign Affairs, participated in studying domestic law standards so as to adapt them to the rules of international law. That office and the National Council of Women, together with the Labor Ministry and union and business

organizations, formed the Tripartite Committee on Equal Opportunity for Men and Women in the Workplace, which sought to foster equal treatment and opportunities for men and women in the job market.

Children

The Government voiced strong commitment to issues of children's rights and welfare, including education and health; however, budgetary restrictions for programs continued. National, provincial, and local agencies worked with international agencies, including UNICEF, to promote children's welfare.

The law requires that all children receive a minimum of 9 years of schooling, beginning at 6 years of age. Education is compulsory, free, and universal for children up to the age of 15; however, adequate schooling was unavailable in some rural areas. The 2001 census showed that 98 percent of all children of primary school age attended school, with roughly the same percentages for both genders. There were numerous federal and provincial health care programs for children, although not all children had access to them.

Child abuse and prostitution continued to occur, but there was progress in some areas. In the city of Buenos Aires, the Council for the Rights of Girls, Boys, and Adolescents implemented a hot line and a network of neighborhood defenders offices to assist victims. The council received 71 reports of child commercial sexual exploitation in 2002. In conjunction with other agencies and organizations, such as UNICEF, the council also conducted active educational and awareness raising efforts. Prosecutors and police pursued cases of Internet child pornography and sought additional legal tools to confront such cybercrime. On September 2, Buenos Aires provincial police reportedly dismantled a child prostitution ring, detaining 6 women and 1 man who exploited 15 girls ranging in age from 8 to 17.

The country's economic crisis disproportionately affected children, and poverty reduction under recovery was slow. Consequently, many of the emergency measures implemented to assist children and families with children in 2002 continued. Separately, the national and provincial governments sought to assure more effectively that minors detained by police were not held in regular police custody, to train security forces, and to track and investigate cases of violence against minors.

UNICEF and the National Council for Childhood, Adolescence, and the Family expressed concern about existing laws for judicial proceedings regarding minors. Children under the age of 16 have immunity. However, under the Law of Guardianship, those accused of a crime who are between the ages of 16 and 18 are taken before a judge and assumed guilty of the crime, without the benefit of a trial. Punishment is based not on the severity of the crime but on the financial ability of the guardians to provide treatment and rehabilitation. Thus, minors who commit serious crimes but come from wealthier families may be released to the guardians, while minors from impoverished backgrounds may be sent to juvenile detention centers for lesser crimes.

Persons with Disabilities

The law prohibits discrimination against persons with disabilities in employment, education, and the provision of other state services and mandates access to buildings for persons with disabilities. There was some progress in these areas. On September 23, the Government formed a committee, with governmental and nongovernmental participants, to follow up on the Implementation of the Inter-American Convention for the Elimination of All Forms of Discrimination Against Persons with Disabilities. The committee's first report noted a failure to comply with current legislation in the areas of employment opportunities, health, and social integration. It also called for a National Plan for Physical and Communication Accessibility and penalties for noncompliance with the law.

The law mandates standards regarding access to public buildings, parks, plazas, stairs, and pedestrian areas. Laws mandating greater accessibility to buses and trains for persons with disabilities were not fully enforced.

NGOs and special interest groups claimed accessibility laws and an employment quota reserving 4 percent of national government jobs for people with disabilities often were not respected in practice. They noted that the law provided no deadlines or penalties and was not mandatory for the provinces. Disability advocates estimated an unemployment rate of over 90 percent for persons with disabilities.

Indigenous People

The Constitution recognizes the ethnic and cultural identities of indigenous people and states that Congress shall protect their right to bilingual education, recognize their communities and the communal ownership of their ancestral lands, and allow for their participation in the management of their natural resources. However, in practice,

indigenous people did not participate in the management of their lands or natural resources. The National Institute of Indigenous Affairs (INAI) is the government agency responsible for implementing these provisions. The Indigenous Advisory Council has not yet been established as provided in the law creating INAI.

The principal indigenous groups--the Kollas in Salta and Jujuy, the Mapuches in the Patagonian provinces, and the Wichis and Tobas in the northern provinces--were believed to represent less than 5 percent of the national population. Estimates of the number of indigenous persons varied widely, between 450,000 cited by demographers to 1.5 million according to the nongovernmental Indigenous Association of the Argentine Republic. In September, the National Statistics Institute stated its intention not to release the results of 2001 census data collected on indigenous identity.

Poverty rates were higher than average in areas with large indigenous populations. Indigenous persons had higher rates of illiteracy, chronic disease, and unemployment. Government efforts to offer bilingual education opportunities to indigenous people continued to be hampered by a lack of trained teachers.

Individuals of indigenous descent from the northern part of the country, as well as from Bolivia, Peru, and other Latin American countries, reportedly were subjected frequently to verbal insults because of their dark skin.

Since 1994, the Government has returned approximately 2.5 million acres of land to indigenous communities. Nonetheless, some communities were involved in land disputes with provincial governments and private companies, particularly over questions of natural resource extraction, pollution, and road construction.

National, Racial, and Ethnic Minorities

Racist incidents were underreported, and racism often was denied as a problem; however, members of racial minorities, such as those of African descent, reported frequent cases of verbal insults and, in some cases, physical assaults on the streets of Buenos Aires. Accounts by those who have been subject to incidents of racial prejudice indicated that the problem was more common than reported. Members of minority groups reported avoiding buses and other crowded public facilities out of fear of being subjected to racial harassment.

On October 3, Ricardo Guzman Zevallos, a Peruvian lawyer, was reportedly detained and beaten by police who insulted him based on his national origin. Guzman Zevallos filed complaints with INADI and the courts.

In 2001, the U.N. Committee on the Elimination of Racial Discrimination expressed concern regarding reports throughout the country of police brutality committed on a variety of pretexts because of a persons' race, color, or ethnic origin.

There were no new developments in the 2001 deaths of Marcelina Meneses, a Bolivian woman, and her baby who were insulted and then were pushed or fell from a suburban train.

In March, the courts convicted a man of threatening a woman of African descent, Elisa Souza de Melgarejo, and inciting racial hatred in 2000, and sentenced him to 10 months in jail, which was suspended in exchange for community service.

Section 6 Worker Rights

a. The Right of Association

The Constitution provides for the right to form "free and democratic labor unions, recognized by simple inscription in a special register," and unions exercised this right. With the exception of military personnel, all workers are free to form unions. An estimated 35 percent of the work force was organized. Trade unions are independent of the Government and political parties, although many union leaders traditionally supported the Justicialist Party. Most unions were affiliated with one of the two factions of the General Confederation of Labor (CGT). A smaller federation, the Argentine Workers' Central, also was recognized legally.

Labor groups not affiliated with the CGT continued to argue that the Professional Associations Law provision for legal recognition of only one union per sector conflicts with International Labor Organization (ILO) Convention 87.

The law prohibits anti-union practices, and the Government generally enforced this prohibition in practice.

Unions are free to join international confederations without government restrictions; many unions also were active in international trade secretariats.

b. The Right to Organize and Bargain Collectively

The Constitution provides unions with the right to negotiate collective bargaining agreements and to have recourse to conciliation and arbitration. The Ministry of Labor, Employment, and Social Security ratifies collective bargaining agreements, which cover roughly three-fourths of the formally employed work force. According to the ILO, the ratification process impedes free collective bargaining because the Ministry not only considers whether a collective labor agreement contains clauses violating public order standards but also considers whether the agreement complies with productivity, investment, technology, and vocational training criteria. However, there were no known cases during the year when the Government refused to approve any collective agreements under the above criteria.

The 2000 Labor Reform Law allows collective bargaining on a regional, provincial, or company basis. A conciliation service, which began operation in 1997, helped reduce the number of labor disputes in courts.

The Constitution provides for the right to strike, and workers exercised this right. Numerous small scale strikes generally protested sector-specific problems.

There are three functioning export processing zones with many others legally registered but not active. The primary commercial advantages of these zones are related to customs and duty exemptions. The same labor laws apply within these zones as in all other parts of the country.

c. Prohibition of Forced or Bonded Labor

The law prohibits forced or bonded labor, including by children, and there were no reports that such practices occurred.

d. Status of Child Labor Practices and Minimum Age for Employment

Child labor was a problem, and the Government continued its effort to develop and implement a national plan of action to eliminate it.

The labor laws allow children to work at the age of 14, and in rare cases the Ministry of Education may authorize a younger child to work as part of a family unit. Children between the ages of 15 and 16 may work in a limited number of job categories, and for limited hours. The penalty for employing underage workers ranges from \$350 to \$1,750 (1,000 to 5,000 pesos) for each child employed.

In 2002, the Ministry of Labor published, with support of the ILO's International Program for the Eradication of Child Labor (IPEC), a Diagnostic Synthesis on Child Labor that estimated 483,000 children were working in 2000. Using a broader definition, to include children working in their homes, the Diagnostic estimated there were 1.5 million child laborers.

In 2000, the President formally established a National Commission for the Eradication of Child Labor to work with the Government, organized labor, the business community, religious groups, UNICEF, and NGOs. The commission, whose activities are financed largely by IPEC, began working with unions and other groups to train rural child labor monitors, and with provincial authorities in the tri-border area to undertake activities to address child sexual exploitation.

e. Acceptable Conditions of Work

The monthly national minimum wage increased for the first time since 1993 from \$70 to \$105 dollars (200 to 300 pesos); however, it still did not provide a decent standard of living for a worker and family. Most workers in the formal sector earned significantly more than the minimum wage.

Federal labor law sets standards in the areas of health, safety, and hours. The maximum workday is 8 hours, and the maximum workweek is 48 hours. Overtime payment is required for hours worked in excess of these limits. The law also sets minimums for periods of rest and paid vacation. However, laws governing acceptable conditions of work were not enforced universally, particularly for workers in the informal sector who constituted an estimated 40

percent of the work force.

Employers are required by law to insure their employees against accidents at the workplace and when traveling to and from work. Workers have the right to remove themselves from dangerous or unhealthful work situations, after having gone through a claim procedure, without jeopardy to continued employment. However, workers who leave the workplace before it has been proven unsafe risk being fired; in such cases, the worker has the right to judicial appeal, but the process can be very lengthy.

f. Trafficking in Persons

The law prohibits trafficking in persons for the purpose of prostitution through fraud, intimidation or coercion, or in the case of minors; however, there were reports that persons were trafficked to, from, or within the country.

Penalties for trafficking ranged from 4 years to 15 years in prison. The law also prohibits alien smuggling, indentured servitude, and similar abuses. Other laws may also be used to prosecute crimes associated with trafficking, such as kidnapping, forced labor, use of false documents, and prostitution. Child prostitution was a problem; in Buenos Aires alone, there were 71 reports of child commercial sexual exploitation in 2002 (see Section 5).

There were reports of some small scale trafficking in persons in the country, which remained primarily a destination country but also occasionally a source and possibly a transit country. During the year, there was a report of a woman seeking work in Spain who was forced into prostitution. Some of the women brought from the Dominican Republic to work in Argentina in the mid- to late-1990s were coerced into prostitution. An investigation encompassing nearly a dozen such women continued, and the International Organization of Migration (IOM) approved the return of 57 Dominicans in 2002 and during the year. On October 13, the press reported that police in Cordoba Province found six Paraguayan women between the ages of 18 and 21 who had been brought to the region in August with promises of domestic employment but who were subsequently pressed into prostitution, including through the confiscation of their documents.

There was no government agency charged with coordinating policy to combat trafficking; however, the Foreign Ministry's Office of the Special Representative for International Women's Affairs did undertake some preventive consciousness raising initiatives, such as holding seminars on trafficking in conjunction with the IOM.

While there were no government programs specifically to assist trafficking victims, the Office for Assistance to the Victims of Crime provided practical, legal, and psychological support to over a dozen Dominican victims of trafficking who were pursuing cases in the legal system. However, there were few mechanisms in place to detect trafficking victims and direct them to this assistance. The Government seldom detained immigrants on immigration-related charges.